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BQA Memo 05-002

To: Adult Family Homes
Community Based Residential Facilities
Residential Care Apartment Complexes

AFH – 01
CBRF – 01
RCAC – 01

From: Kevin Coughlin, Chief, Assisted Living Section

Via: Cris Ros-Dukler, Director, Bureau of Quality Assurance

FREEDOM OF CHOICE OF PHARMACY PROVIDER

This memo addresses a resident's right to choose a pharmacy provider while residing in an assisted living facility. These facilities include adult family homes (AFHs), community-based residential facilities (CBRFs), and residential care apartment complexes (RCACs).

APPLICABLE REGULATIONS:

Wis. Stat. § 50.09(1)(m) states that every resident in a community-based residential facility shall have the right to use the licensed pharmacist of the resident's choice.

Wis. Admin. Code § HFS 83.21(4)(q) states that every CBRF resident has the right to exercise complete choice of pharmacist.

Wis. Admin. Code § HFS 88.10(3)(i) states that every AFH resident has the right to exercise complete choice of pharmaceutical services.

Wis. Admin. Code § HFS 89.34(6) states that every RCAC tenant has the right to the facility's non-interference with the tenant's choice of pharmaceutical services. A tenant shall not be required to use pharmaceutical providers who are employed by or affiliated with the facility or to whom the tenant is referred by facility staff.

DISCUSSION:

Residents make choices at all levels of their care. Usually their first decision involves the facility to which they wish to be admitted. Other choices include the services they wish to have, whether they

want a private room, and whether to participate in leisure-time activities, etc. Residents who choose to manage their own medications have the complete choice of the pharmacy and pharmacist they wish to use. Residents who choose to self-administer their medications or who must have their medications managed and administered by the facility, still have the right to select their own pharmacy and pharmacist. However, that pharmacy and pharmacist must be willing and able to meet certain facility standards. For example, in a CBRF that does not have an RN who supervises medication administration, the facility must have all staff-administered prescription medications packaged in unit dose or unit time packaging by a pharmacist. In some cases, the resident's chosen pharmacy may be unwilling or unable to meet these packaging requirements. If this is the case, a resident's choice of pharmacy and pharmacist will be limited.

The issue is what reasonable criteria or standards, if any, can an assisted living facility have in place regarding choice of pharmacy? Assisted living facilities responsible for medication administration have additional regulations that must be followed. These regulations reference packaging, labeling, storing, administration documentation, physician notification, and medication error reporting requirements. A pharmacy that provides medications to be administered by the facility needs to adhere to the applicable regulatory requirements. A resident's choice of pharmacy will be limited when a resident's chosen pharmacy does not wish to provide medications under the appropriate regulatory standards.

RESULT:

In some situations, facilities have unknowingly created standards for pharmacies that have completely eliminated complete choice for residents. In other cases, facilities have presented their residents with information that suggests the residents have no choice but to use the pharmacy preferred/used by the facility. It is in this context that the following guidelines are provided to assisted living facilities that establish their own criteria/standards for pharmacies. These standards must apply to all pharmacies the resident chooses, and include the pharmacy the facility prefers.

Choosing a non-preferred pharmacy may subject the resident to additional reasonable fees or charges. Any additional fees or charges for choosing a non-preferred pharmacy must, by rule, be communicated to the resident.

The standards for the drug distribution system include:

1. **Packaging and labeling of medications.** This may be in prescription vials, punch cards, unit time packets or unit dose packages. If the unit dose system is selected, it will apply only to the items that are supplied in unit dose (i.e., tablets and capsules). If liquids are not in unit dose, the facility cannot prevent a pharmacy from providing bulk liquids. If punch cards are selected, the pharmacy must provide medications in a card system. Systems do not need to be from the same manufacturer, but may be similar in function.
2. **Pharmacy information to the assisted living facility on proper use of medications.** Each pharmacy is expected to give information to the facility and resident about special

requirements for medication use or administration. The pharmacy is also expected to attach auxiliary labels to the containers as required by state pharmacy regulations. The pharmacy must have a resident medication profile that allows checking for drug interactions, allergies, and duplications before the prescription is filled and sent to the facility. Any concerns identified by the providing pharmacist must be brought to the attention of a facility representative and the prescribing physician.

The following items are **not part of a drug distribution system** for purposes of pharmacy choice. A pharmacy is not required to provide these services in order to provide medications to an assisted living resident. The items included below are examples and are not meant to be all-inclusive.

- a. Medication forms or records, including the medication administration records, treatment records, and other computer printouts;
- b. FAX machines, computers, or other such equipment;
- c. Intravenous services;
- d. Medication carts and equipment for administering medications, *e.g.*, IV pumps;
- e. Consultation services, including drug regimen reviews, drug storage inspections, medication pass observations, committee meetings, and assessment reviews not related to dispensing of the medication;
- f. In-service training; and
- g. Emergency dispensing or “24/7” availability.